

MONTANA LEGISLATIVE HISTORY

Chapter 341 1989

Bill H 434 S _____

Original bill & history ☒ c

H. Committee on Bus. & Econ. Dev

S. Committee on Bus. & Industry

Hearing Date(s) 1/31 _____ c

Hearing Date(s) 3/13 _____ c

_____ c

_____ c

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_____ c

Date Out _____ c

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

HOUSE FINAL STATUS

2/15 REFERRED TO EDUCATION & CULTURAL RESOURCES
 3/06 HEARING
 3/07 COMMITTEE REPORT--BILL CONCURRED
 3/08 REREFERRED TO EDUCATION & CULTURAL RESOURCES
 3/28 MINORITY COMMITTEE REPORT--CONCURRED
 AS AMENDED
 3/28 MAJORITY COMMITTEE REPORT--NOT CONCURRED
 AS AMENDED
 3/28 MINORITY COMMITTEE REPORT ADOPTED
 3/28 2ND READING CONCURRED 26 22
 3/29 3RD READING CONCURRED 31 18

RETURNED TO HOUSE WITH AMENDMENTS
 3/30 2ND READING AMENDMENTS CONCURRED 98 0
 3/31 3RD READING AMENDMENTS CONCURRED 96 1

4/06 SIGNED BY SPEAKER
 4/06 SIGNED BY PRESIDENT
 4/07 TRANSMITTED TO GOVERNOR

4/11 RETURNED TO HOUSE WITH GOVERNOR'S AMENDMENTS
 4/13 2ND READING INDEFINITELY POSTPONED
 ON GOVERNOR'S AMENDMENTS 95 3

DIED IN PROCESS

HB 433 INTRODUCED BY BACHINI, ET AL.
 CREATE A STATE HISTORIC SITES SYSTEM IMPROVEMENT
 COMMISSION

1/26 INTRODUCED
 1/26 REFERRED TO EDUCATION & CULTURAL RESOURCES
 1/31 FISCAL NOTE REQUESTED
 2/06 HEARING
 2/06 FISCAL NOTE RECEIVED
 2/07 COMMITTEE REPORT--BILL PASSED
 2/08 FISCAL NOTE PRINTED
 2/11 2ND READING PASSED 72 20
 2/11 TAKEN FROM ENGROSSING
 2/11 REREFERRED TO APPROPRIATIONS
 3/13 HEARING
 3/15 TABLED IN COMMITTEE

HB 434 INTRODUCED BY RICE, ET AL.
 CLARIFY THAT TELECOMMUNICATIONS CONTRACTS ARE NOT
 INSURANCE CONTRACTS

1/26 INTRODUCED
 1/26 REFERRED TO BUSINESS & ECONOMIC DEVELOPMENT
 1/31 HEARING
 2/01 COMMITTEE REPORT--BILL PASSED
 2/03 2ND READING PASSED AS AMENDED 100 0
 2/06 3RD READING PASSED 98 0

TRANSMITTED TO SENATE
 2/07 REFERRED TO BUSINESS & INDUSTRY
 3/13 HEARING
 3/13 COMMITTEE REPORT--BILL CONCURRED 48 1
 3/14 2ND READING CONCURRED 48 0
 3/16 3RD READING CONCURRED

HOUSE FINAL STATUS

RETURNED TO HOUSE
 3/21 SIGNED BY SPEAKER
 3/22 SIGNED BY PRESIDENT
 3/22 TRANSMITTED TO GOVERNOR
 3/27 SIGNED BY GOVERNOR
 CHAPTER NUMBER 341 EFFECTIVE DATE: 3/27/89

HB 435 INTRODUCED BY GIACOMETTO, ET AL.
 ALLOW COUNTY ELECTORS TO REMOVE TAX FREEZE FOR
 TAXING UNITS IN COUNTY

1/26 INTRODUCED
 1/26 REFERRED TO TAXATION
 2/03 HEARING
 3/10 TABLED IN COMMITTEE

HB 436 INTRODUCED BY GOULD
 ALLOW RURAL FIRE DISTRICT TO CONTRACT WITH PRIVATE
 PARTIES WITHIN CITY LIMITS

1/26 INTRODUCED
 1/26 REFERRED TO LOCAL GOVERNMENT
 2/07 HEARING
 2/08 COMMITTEE REPORT--BILL NOT PASSED
 2/09 ADVERSE COMMITTEE REPORT ADOPTED 78 18

HB 437 INTRODUCED BY GOULD, ET AL.
 REVISE SCOPE OF PODIATRY PRACTICE

1/26 INTRODUCED
 1/26 REFERRED TO BUSINESS & ECONOMIC DEVELOPMENT
 2/16 HEARING
 2/16 COMMITTEE REPORT--BILL PASSED
 2/18 2ND READING PASSED 95 1
 2/21 3RD READING PASSED 97 0

TRANSMITTED TO SENATE
 2/28 REFERRED TO PUBLIC HEALTH, WELFARE & SAFETY
 3/10 HEARING
 3/13 COMMITTEE REPORT--BILL CONCURRED AS AMENDED
 3/14 2ND READING CONCURRED 48 0
 3/16 3RD READING CONCURRED 47 1

RETURNED TO HOUSE WITH AMENDMENTS
 3/30 2ND READING AMENDMENTS CONCURRED 99 0
 3/31 3RD READING AMENDMENTS CONCURRED 98 0

4/06 SIGNED BY SPEAKER
 4/06 SIGNED BY PRESIDENT
 4/07 TRANSMITTED TO GOVERNOR
 4/10 SIGNED BY GOVERNOR
 CHAPTER NUMBER 484 EFFECTIVE DATE: 10/01/89

HB 438 INTRODUCED BY GOULD, ET AL.
 EXTEND HOSPITAL STAFF PRIVILEGES TO OSTEOPATHS AND
 PODIATRISTS

1/26 INTRODUCED
 1/26 REFERRED TO BUSINESS & ECONOMIC DEVELOPMENT

1 *House* BILL NO. *434*
2 INTRODUCED BY *Kici J. Brown Cardinale*
3 *Whalen* *MERCER*
4 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THAT
5 TELECOMMUNICATIONS CONTRACTS ARE NOT INSURANCE CONTRACTS;
6 AMENDING SECTION 33-1-201, MCA; AND PROVIDING AN IMMEDIATE
7 EFFECTIVE DATE."

8
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 **Section 1.** Section 33-1-201, MCA, is amended to read:

11 "33-1-201. Definitions -- insurance in general. For
12 the purposes of this code, the following definitions apply
13 unless the context requires otherwise:

14 (1) An "alien insurer" is one formed under the laws of
15 any country other than the United States, its states,
16 districts, territories, and commonwealths.

17 (2) An "authorized insurer" is one duly authorized by
18 subsisting certificate of authority issued by the
19 commissioner to transact insurance in this state.

20 (3) A "domestic insurer" is one incorporated under the
21 laws of this state.

22 (4) A "foreign insurer" is one formed under the laws
23 of any jurisdiction other than this state. Except where
24 distinguished by context, foreign insurer includes also an
25 alien insurer.

1 (5) (a) "Insurance" is a contract whereby one
2 undertakes to indemnify another or pay or provide a
3 specified or determinable amount or benefit upon
4 determinable contingencies.

5 (b) Insurance does not include contracts for the
6 provision of inside telecommunications wiring to residential
7 or business premises.

8 (6) "Insurer" includes every person engaged as
9 indemnitor, surety, or contractor in the business of
10 entering into contracts of insurance. The term also
11 includes a health service corporation in the provisions
12 listed in 33-30-102.

13 (7) A "resident domestic insurer" is an insurer
14 incorporated under the laws of this state and:

15 (a) if a mutual company, not less than one-half of the
16 policyholders are natural persons who are residents of this
17 state; or

18 (b) if a stock insurer, not less than one-half of the
19 shares are owned by natural persons who are residents of
20 this state and all of the directors and officers of the
21 insurer are residents of this state.

22 (8) "State", when used as relating to jurisdiction,
23 means a state, the District of Columbia, or a territory,
24 commonwealth, or possession of the United States.

25 (9) "Transact", with respect to insurance, includes

1 any of the following:

2 (a) solicitation and inducement;

3 (b) preliminary negotiations;

4 (c) effectuation of a contract of insurance;

5 (d) transaction of matters subsequent to effectuation
6 of the contract of insurance and arising out of it.

7 (10) An "unauthorized insurer" is one not authorized by
8 subsisting certificate of authority issued by the
9 commissioner to transact insurance in this state."

10 NEW SECTION. **Section 2.** Extension of authority. Any
11 existing authority to make rules on the subject of the
12 provisions of [this act] is extended to the provisions of
13 [this act].

14 NEW SECTION. **Section 3.** Effective date. [This act] is
15 effective on passage and approval.

-End-

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT

Call to Order: By Rep. Bob Pavlovich, on January 31, 1989,
at 8:30 a.m.

ROLL CALL

Members Present: All

Members Excused: None

Members Absent: None

Staff Present: Paul Verdon and Sue Pennington

Announcements/Discussion: None

HEARING ON HOUSE BILL 321

Presentation and Opening Statement by Sponsor: Rep. Spaeth,
District 84. This bill will require uniform commercial
code financing statements to include the social
security number or tax identification number of the
debtor. The reason for this is that there are a lot of
names which are the same in the state of Montana.

List of Testifying Proponents and What Group They Represent:
Garth Jacobson, Secretary of State Office

List of Testifying Opponents and What Group They Represent:
None

Testimony: See exhibit 1 for Mr. Jacobson's written
testimony

Questions From Committee Members: None

Closing by Sponsor: Rep. Spaeth asked for a do pass on HB
321.

DISPOSITION OF HOUSE BILL 321

Motion: Rep. Bachini moved DO PASS.

Discussion: None

Amendments and Votes: None

Recommendation and Vote: HB 321 received DO PASS vote of 15-1.

HEARING ON HOUSE BILL 434

Presentation and Opening Statement by Sponsor: Rep. Rice, District 43. This bill may seem like a strange bill as you read over it. It addresses a problem that results from a recent change we have seen in the telephone industry in the last few years. This bill will clarify telecommunications contracts as not being insurance contracts; amends Section 33-1-201, MCA; and provides an immediate effective date. It provides simple service agreements for inside wiring of your telephones.

List of Testifying Proponents and What Group They Represent:

Gene Phillips, Northwestern Telephone Co., Kalispell
Barry Hjort, USWC

List of Testifying Opponents and What Group They Represent:

None

Testimony: Mr. Hjort stated that USWest is in support of HB 434. In the case of inside wiring it will avoid a situation where the companies will be regulated not only by the Public Service Commission but also by the insurance commissioner's office. In 1982 the FCC deregulated inside wiring. In 1986 Montana PSC deregulated inside wiring. The effect of this deregulation was essentially that various contractors of the consumers choosing could install the inside wire in individual homes. The affect of that from USWest's perspective is that we have been advised by the insurance commissioner that we do potentially have a problem with the insurance. If you have a service contract with the people you buy a product from this is not subject to regulation by the insurance commissioner, but if you buy a product and have a service contract with someone else, this is subject to regulation by the insurance commissioner's office. If this bill is passed we will be able to provide service for inside wiring to customers and avoid a great deal of dissatisfaction and uncertainty if we are exempt from the regulation and insurance laws.

Mr. Phillips stated that his company also supports this

bill.

Questions From Committee Members: None

Closing by Sponsor: Rep. Rice closed by asking the committee to give this bill a do pass.

DISPOSITION OF HOUSE BILL 434

Motion: Rep. Bachini moved DO PASS.

Discussion: None

Amendments and Votes: None

Recommendation and Vote: HB 434 DO PASS.

HEARING ON HOUSE BILL 326

Presentation and Opening Statement by Sponsor: Rep. Rice stated that this bill will exempt certain paralegals, legal assistants, and law students from the laws regulating private investigators and patrolmen; and amends Section 37-60-105, MCA.

List of Testifying Proponents and What Group They Represent:

Carol Bronson, Certified Legal Assistant, Great Falls
Lori Johns, Paralegal, Butte
Becky Copple, Legal Assistant, Billings
Sue Weingartner, MT. Defense Trial Lawyers
Mike Sherwood, MT Trial Lawyers Assoc.
Jolene Miller, First Vice President, National
Federation of Paralegal Assoc., Deerfield, IL
Karen B. Judd, CLA, President, NALA, Tulsa, OK

List of Testifying Opponents and What Group They Represent:

Clayton Bain, Helena
M. T. Mangan, Helena
Mark Pfgetzger, Great Falls

Testimony: Ms. Copple stated that she is in support of this bill, see exhibit 1 for her written testimony.

Ms. Bronson submitted Ms. Miller's written testimony.
Ms. Miller is in favor of this bill, see exhibit 2 for her written testimony.

Ms. Bronson submitted Ms. Judd's written testimony.

ROLL CALL VOTE

BUSINESS & ECONOMIC DEVELOPMENT

COMMITTEE

DATE 11/31/89 BILL NO. 434 NUMBER

[illegible]

TALLY

16

Sue Pennington
Secretary

Bob Pavlovich
Chairman

MOTION: _____

MINUTES

MONTANA SENATE 51st LEGISLATURE - REGULAR SESSION COMMITTEE ON BUSINESS AND INDUSTRY

Call to Order: By Chairman Gene Thayer, on March 13, 1989,
at 10:00 a.m., Room 410

ROLL CALL

Members Present: Chairman Thayer, Vice Chairman Meyer,
Senator Boylan, Senator Noble, Senator Williams,
Senator Hager, Senator McLane, Senator Lynch

Members Excused: None

Members Absent: Senator Weeding

Staff Present: Mary McCue, Legislative Council

Announcements/Discussion: None

HEARING ON HOUSE BILL 669

Presentation and Opening Statement by Sponsor:

Representative Marian Hanson, House District 100, said HB 669 was the result of a federal law, and allowed for the creation of certain multiple employer health plans and their state regulation. She said the bill would help keep the cost of health insurance down, and would assist hospitals and other providers in rural areas. She presented an amendment for the bill. (See Exhibit #1) She also passed out a summary of HB 669. (See Exhibit #2)

List of Testifying Proponents and What Group They Represent:

Mike Young - CCA, Billings and Missoula, Montana
Senator Dorothy Eck - Senate District 40
Lloyd Lockrem, Jr. - Montana Contractors Association
Roger Tippy - Montana Dental Association
Don Ingels - Montana Chamber of Commerce
Gene Fenderson - Montana State Building Construction
Trades Council
Steve Brown - Blue Cross/Blue Shield
Carla Gray - Montana Car Company
Rob Morawic - Missoula Chamber of Commerce

expensive and more convenient for all parties concerned.

DISPOSITION OF HOUSE BILL 251

Discussion: None

Amendments and Votes: None

Recommendation and Vote: Senator Lynch made a motion HB 251 BE CONCURRED IN. Senator Meyer seconded the motion. The motion Carried Unanimously. Senator Weeding carried the bill on the Senate floor.

HEARING ON HOUSE BILL 434

Presentation and Opening Statement by Sponsor:

Representative Rice, House District 43, said HB 434 addressed a problem which resulted from the recent changes in the telephone industry. He said the bill simply established that service agreements to provide maintenance for inside telephone wire, and was not insurance. He stated that if company A installed the telephone wire in your house and they also agreed to maintain the wiring, that was a simple service agreement which did not create a problem. However, if company A installed the wiring and you agreed with company B to maintain that wiring, according to a recent ruling from the insurance commissioner, that was insurance. He said there was a resulting regulation and a cost in complying with the insurance laws which company B must then go through. He said the result had been that companies in the company B position were refusing to undertake the cost of the paperwork to comply with the insurance laws of Montana.

He said consumer confusion had arisen as to why one company would do the maintenance, and another would not. He said consumers didn't really know who had installed the telephone wiring in their house. He said the bill would eliminate that confusion, and make the inside wiring maintenance more widely available.

List of Testifying Proponents and What Group They Represent:

Barry Hjort - U.S. West Direct Communications

List of Testifying Opponents and What Group They Represent:

None

Testimony: Barry Hjort said the bill was brought before them, because in 1982 the Federal Communications Commission deregulated inside wiring, and in 1987 the Montana Public Service Commission also deregulated inside wiring service. He said that after the FCC deregulation virtually any contractor could do inside wiring, and the difficulty that arose was as Representative Rice had described. He said the insurance commissioner's office had advised them that the current state of the insurance laws would subject them to insurance regulation. He said they had been advised by the commissioner's office that they were neutral on the bill.

Questions From Committee Members: Jim Borchardt, of the insurance commissioner's office, told Chairman Thayer they didn't have any problem with the bill and they were remaining neutral.

Closing by Sponsor: Representative Rice simply closed.

DISPOSITION OF HOUSE BILL 434

Discussion: None

Amendments and Votes: None

Recommendation and Vote: Senator Lynch made a motion HB 434 BE CONCURRED IN. Senator Meyer seconded the motion. The motion Carried Unanimously. Senator Williams carried the bill on the Senate floor.

HEARING ON HOUSE JOINT RESOLUTION 5

Presentation and Opening Statement by Sponsor:

Representative Bardanouve, House District 16, said HJR 5 was a very important resolution, and other legislators across the nation were looking at a way to better control insurance companies of America. He said the insurance companies of America were in a very unique situation, in that they lobbied the McCarran-Ferguson Law through Congress. He said they had convinced Congress to remove the insurance industry from federal control, and it was the only business in America which was exempt from the anti-trust laws, the

SENATE STANDING COMMITTEE REPORT

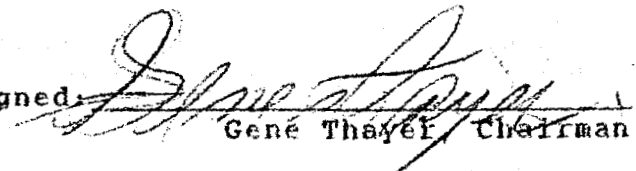
March 13, 1989

MR. PRESIDENT:

We, your committee on Business and Industry, having had under consideration HB 434 (third reading copy -- blue), respectfully report that HB 434 be concurred in.

Sponsor: Rice (Williams)

BE CONCURRED IN

Signed: 

Gene Thayer, Chairman

41.0.84
3/13/89
J.V.M.

scrhb434.313

HOUSE BILL NO. 434

INTRODUCED BY RICE, J. BROWN, COCCHIARELLA, WHALEN, MERCER

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THAT
TELECOMMUNICATIONS CONTRACTS ARE NOT INSURANCE CONTRACTS;
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BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 33-1-201, MCA, is amended to read:

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(2) An "authorized insurer" is one duly authorized by
subsisting certificate of authority issued by the
commissioner to transact insurance in this state.

(3) A "domestic insurer" is one incorporated under the
laws of this state.

(4) A "foreign insurer" is one formed under the laws
of any jurisdiction other than this state. Except where
distinguished by context, foreign insurer includes also an
alien insurer.

(5) (a) "Insurance" is a contract whereby one
undertakes to indemnify another or pay or provide a
specified or determinable amount or benefit upon
determinable contingencies.

(b) Insurance does not include contracts for the
INSTALLATION, MAINTENANCE, AND provision of inside
telecommunications wiring to residential or business
premises.

(6) "Insurer" includes every person engaged as
indemnitor, surety, or contractor in the business of
entering into contracts of insurance. The term also
includes a health service corporation in the provisions
listed in 33-30-102.

(7) A "resident domestic insurer" is an insurer
incorporated under the laws of this state and:

(a) if a mutual company, not less than one-half of the
policyholders are natural persons who are residents of this
state; or

(b) if a stock insurer, not less than one-half of the
shares are owned by natural persons who are residents of
this state and all of the directors and officers of the
insurer are residents of this state.

(8) "State", when used as relating to jurisdiction,
means a state, the District of Columbia, or a territory,
commonwealth, or possession of the United States.

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2 any of the following:

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5 (c) effectuation of a contract of insurance;
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15 NEW SECTION. **Section 3.** Effective date. [This act] is
16 effective on passage and approval.

-End-